

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-cv-

G. DAVID IVERSON)
and ACCESS WITH SUCCESS, INC.)
)
Plaintiffs)
v.)
CITY OF BOSTON,)
MASSACHUSETTS)
)
defendant)

MAGISTRATE JUDGE DCIN

04 11825 NMG

RECEIPT # 58138
AMOUNT \$ 150
SUMMONS ISSUED yes
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK 1 DM
DATE 8/20/04

COMPLAINT AND JURY DEMAND

PRELIMINARY STATEMENT

This is an action seeking injunctive, declaratory and equitable relief pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12181, *ci seq.*, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, Article 114 of the Massachusetts Constitution, and Massachusetts General Laws c. 93 § 103. The Plaintiffs, ACCESS WITH SUCCESS, INC. and G. DAVID IVERSON, through their undersigned counsel, bring this cause of action against the CITY OF BOSTON, a municipal corporation, and as causes of action allege as follows:

PARTIES

1. The plaintiff Access with Success, Inc., (AWS) is a non-profit corporation organized and existing under the laws of the Commonwealth of Massachusetts. Its members are able-bodied individuals and qualified individuals with disabilities as defined by the ADA. Its members include G. David Iverson. Mr. Peter A. Spalluto, age 58, who is quadriplegic due

to a swimming pool diving accident in 1966, is also a member. He always uses a wheelchair to ambulate. Mr. Scott M. Frotton, age 41, is a founding member of AWS. Mr. Frotton has T7 paraplegia secondary to a spinal cord injury sustained in a construction site accident in 1998. He has a complete loss of sensory and motor function from his chest down. His condition is permanent. He always uses a wheelchair to ambulate. Mr. Francis DeVito is a Korean War veteran and a member of AWS. In 1953, he was injured by a grenade and gunfire in an ambush attack while his Marine unit was on patrol in Korea. His wounds were such that it became medically necessary to amputate his left leg above the kneecap. He requires the use of ambulatory devices for mobility, including a prosthetic leg and a crutch, when necessary, in order to ambulate. Raymond J. Aziz, age 62, is a member of AWS. He has a mobility impairment secondary to adult onset of diabetes. He requires the use of leg braces for ambulation. Norman P. Crescimano, age 42, is a member of AWS. He has multiple sclerosis and always uses a wheelchair for ambulation. Mr. Frank Salafia, age 66, is a member of AWS. He is hearing impaired and has a loss of vision in one eye. Amylee O'Beirne, age 24, is a founding member of AWS. She has had rheumatoid arthritis since early childhood. She frequently uses a wheelchair for ambulation. Lisa M. Thompson, age 31, is a member of AWS and she is President of the New Hampshire Chapter of the National Spinal Cord Injury Association. She is paraplegia due to a motor vehicle accident which occurred in 2000. She almost always requires the use of a wheelchair for ambulation, but sometimes is able to use crutches. All of the above-named members of AWS are qualified individuals with disabilities within the meaning of the ADA and all other applicable federal and state statutes.

2. AWS is a civil rights group organized by individuals with disabilities to advocate for

disabled persons' integration into society and equal access to all services, activities, programs, resources and facilities available to non-disabled persons. Its members are predominately, but not exclusively, individuals with various physical disabilities impairing mobility, vision and hearing. One of the primary purposes of AWS is to assure that places of public accommodation are accessible to, and usable by persons with disabilities. Title II of the ADA permits private individuals to bring lawsuits in which they can obtain court orders to stop discrimination on the basis of disability.

3. AWS and its members have suffered direct and indirect injury as a result of the defendant's actions or inactions as described herein. AWS also has been discriminated against because of its association with its members and their claims. The defendant's failure to comply with the ADA adversely affects the organizational purpose of AWS.
4. The plaintiff, G. David Iverson, resides at 130 Dartmouth Street, Apt. 905, Boston, Massachusetts 02116. Mr. Iverson is a T8-T9 complete paraplegic secondary to a gunshot wound he suffered in a random street attack in Boston in September 1987. Mr. Iverson relies completely upon a wheelchair for ambulation. Mr. Iverson also has a complete hearing loss in his left ear. He is a qualified individual with disabilities under the ADA and all other applicable federal and state statutes.
5. The defendant, City of Boston is a municipal corporation incorporated as a town in the Commonwealth of Massachusetts in 1630 and as a city in 1822. Upon information and belief, Boston owns, operates, leases and/or maintains the programs and services offered by Boston as well as the facilities, real properties and improvements which are the subject of this action.
6. The facilities owned, operated, leased and/or maintained by Boston include, but are not

limited to the city streets, city parking, sidewalks, curb cuts, curb ramps, libraries, City Hall, and all police precinct buildings. Upon information and belief, Boston has at least fifty employees.

7. Prior to instituting the instant action, Mr. Iverson personally availed himself of Boston's programs and services and visited the defendant's facilities, including but not limited to the city streets, city parking, sidewalks, curb cuts, curb ramps, the City Hall, and was unable to access the same in a manner equal, comparable, or similar to a non-disabled person to due to the defendant's lack of compliance with the ADA.
8. The plaintiff, G. David Iverson, was denied full and equal access to the subject programs, services, facilities and properties of the defendant. Mr. Iverson desires to and intends to avail himself of the programs and services of Boston and intends to visit the defendant's programs, facilities and properties in the future.

JURISDICTION AND VENUE

9. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 and §1343 in that this is an action arising under the laws of the United States and the defendant is subject to personal jurisdiction. The Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §1337.
10. Venue is proper in this Court under 28 U.S.C. §1391; the claim having arisen in the District of Massachusetts.

COUNT I: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT

11. The plaintiffs repeat the preceding allegations as if fully set forth here.
12. All events giving rise to this lawsuit occurred in the state of Massachusetts.
13. On or about July 26, 1990, Congress enacted the ADA, which is codified at 42 U.S.C.

§12101 *et seq.*

14. Pursuant to the mandates of 42 U.S.C. § 12134(a), on July 26, 1991, the Department of Justice, Office of the Attorney General, promulgated federal regulations to implement the requirements of the ADA. Those regulations are codified at 28 C.F.R., Part 35 and 36.
15. In Title II of the ADA, Congress provided that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of a public entity, or be subjected to discrimination by any such entity.
16. Title II of the ADA requires that a public entity, such as the defendant, take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others. 28 C.F.R. §35.160(a).
17. Title II of the ADA requires a public entity, such as the defendant, to furnish auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by a public entity. 28 C.F.R. § 35.106(b) (1).
18. Title II of the ADA and 28 C.F.R. § 35.105 requires defendant to complete a self-evaluation by January 26, 1993 of its services, policies, practices and effects thereof that do not comply with the ADA. The defendant was required to make the necessary modifications. The defendant has not completed an adequate self-evaluation.
19. Title II of the ADA and 28 C.F.R. § 35.105 required defendant to develop a transition plan by July 26, 1992 where structural changes in its existing facilities needed to be undertaken to achieve program accessibility for all persons with disabilities, including the plaintiffs. The defendant failed to develop an adequate transition plan and failed to implement any

transition plan.

20. The defendant's failure to adequately complete its self-evaluation and its failure to adequately develop a transition plan which fully meets the requirements of the ADA has denied, and continues to deny the plaintiffs their rightful opportunity for equal access to Boston's municipal facilities and services.
21. The defendant was required to have completed structural changes in its facilities no later than January 26, 1995. The defendant has failed to complete the required structural changes to achieve equal access to their programs, service, activities, facilities and properties.
22. As a governmental and public entity charged with ensuring compliance with federal and state laws, Boston has known for several years of its duties and obligations under Title II of the ADA. Despite this knowledge, Boston has failed to comply adequately with the ADA's self-evaluation and transition plan requirements.
23. Boston has known for several years of its duties and obligations under Title II of the ADA to complete the necessary and required structural changes to its facilities. Boston failed to complete the necessary and required structural changes to its facilities by January 26, 1995, as mandated by federal law.
24. The defendant's failure to meet all of its obligations under Title II of the ADA including, *inter alia*, to complete a self-evaluation, to develop a transition plan for modification of existing facilities and to fully implement all structural modifications has denied, and continues to deny, the plaintiffs access to Boston's programs, services and activities that are otherwise available to persons without disabilities.
25. As a governmental and public entity, Boston has engaged in conduct and acts of omission

that subject the plaintiffs to discrimination solely on the basis of their disabilities. Boston directly participated in or acquiesced in the conduct or acts or omissions to act described herein.

26. The plaintiffs were subjected to discrimination when they attempted to access the programs services, facilities and properties owned and/or operated by the City of Boston. The plaintiffs continue to desire to utilize Boston's programs and services as well as to return to the facilities and properties owned and/or operated by Boston. They intend to do so and therefore will continue to suffer discrimination by the defendant in the future.
27. Under Title II of the ADA, the programs and activities of public entities must be accessible to people with disabilities unless that would cause a fundamental alteration to the program or activity or constitute an undue financial and administrative burden to the entity. 28 C. P.R. §35.149-150. It is the burden of the entity to prove that compliance would result in such fundamental alteration or financial burden. Further, any decision that compliance would result in alteration or burden must be made after considering all resources available for use in the funding of operation of service, program, or entity, and must be accompanied by a written statement of the reasons for reaching that conclusion. 28 C.F.R. §35.150(a) (3.). The City of Boston cannot meet this burden of justifying its discriminatory practices and acts.
28. The plaintiffs have been unable to and continue to be unable to enjoy full and equal access to the benefits of the programs, services and facilities owned and/or operated by Boston.
29. In addition to not providing equal access to the programs and services offered by Boston, the defendant, Boston, is in violation of 42 USC. §12181 and 28 C.F.R. § 36.302 *et seq.* and is discriminating against the plaintiffs on the basis of the following violations:

- a. Most of the accessible parking spaces owned and/or operated by Boston lack the required access aisles;
 - b. City streets lack accessible parking spaces as required by law;
 - c. Many accessible parking spaces are not on an accessible route to the public buildings that they are intended to serve;
 - d. Many Boston streets lack proper curb cuts and/or curb ramps;
 - e. Many City sidewalks contain obstacles which block or impede the accessible path of travel;
 - f. Police stations and fire stations are inaccessible to persons in wheelchairs;
 - g. There is no accessible route through the City of Boston; and
 - h. There are no audible and visual pedestrian traffic controls that would be useful to hearing and sight-impaired individuals.
30. Upon information and belief, the plaintiffs allege that there are other violations with respect to programs, services and facilities owned, administered and/or operated by Boston that will be more fully alleged upon discovery and further inspection.
31. The City of Boston has failed to make efforts required under the ADA to remove such barriers to the extent readily achievable, nor has the City of Boston complied with accessibility standards to the maximum extent feasible.
32. The defendant has also, by maintaining such barriers, failed to comply with the ADA and access requirements for areas of new construction or alteration.
33. The actions and initiatives which the City of Boston has failed to undertake in order to make the City's services and facilities accessible to persons with disabilities are actions and initiatives that would be readily achievable, required by law, and would greatly assist persons with disabilities at minimal expense to the City of Boston.
34. The City's conduct constitutes ongoing and continuous violations of the ADA and, unless

restrained from doing so, the defendant will continue to violate the ADA. Said conduct, unless enjoined, will continue to inflict injuries for which plaintiffs have no adequate remedy at law.

WHEREFORE, the plaintiffs demand judgment against the City of Boston and request compensatory damages and the following injunctive and declaratory relief pursuant to Title II of the ADA:

- a. That the Court declare that the programs, services and facilities owned, operated and administered by Boston, violate the ADA;
- b. That the Court enter an order directing Boston to alter its programs, services and facilities to make them accessible to and useable by individuals with disabilities to the full extent required by Title II of the ADA;
- c. That the Court enter an order directing Boston to evaluate and neutralize its policies and procedures towards persons with disabilities for such reasonable time so as to allow Boston to undertake and complete corrective procedures;
- d. That the Court award damages, reasonable attorneys' fees, costs (including expert fees) and other expenses of suit, to the plaintiffs; and
- e. That the Court award such other and further relief as it deems necessary, just and proper.

COUNT II- REHABILITATION ACT

- 35. The plaintiffs repeat the allegations of the preceding paragraphs as if set forth completely here.
- 36. Section 504 of the Rehabilitation Act provides:

“No otherwise qualified handicapped individual ... shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 29 U.S.C. §794.”

- 37. Section 504 creates a private right of action in favor of persons who have been subjected

- to illegal discrimination on the basis of a physical handicap or disability.
38. On information and belief, the City of Boston administers, sponsors and operates programs which receive federal financial assistance within the meaning of the Rehabilitation Act.
 39. The plaintiff, G. David Iverson, is a qualified handicapped individual within the meaning of the Rehabilitation Act. The plaintiff AWS, includes members who are qualified handicapped individuals within the meaning of the Rehabilitation Act.
 40. As stated in the foregoing paragraphs, the plaintiffs have been excluded from participation in or denied the benefits of the City's services, programs and activities and were otherwise discriminated against by the City of Boston.
 41. The plaintiffs' exclusion, denial of benefits or other discrimination, was by reason of their disabilities and physical handicaps.
 42. The plaintiffs will suffer substantial irreparable harm if the programs, services and activities held and operated by the City of Boston are not made accessible as required under the Rehabilitation Act.
 43. Furthermore, the public interest strongly favors mandating accessibility of the City's programs and services.

WHEREFORE, the plaintiffs demand judgment against Boston and request the following relief:

- a. That the Court declare that the programs, services and facilities owned, operated and administered by Boston, violate the Section 504 of the Rehabilitation Act;
- b. That the Court enter an order directing Boston to alter its programs, services and facilities to make them accessible to and useable by individuals with disabilities to the full extent required by the Rehabilitation Act;
- c. That the Court, in its discretion, award damages, reasonable attorneys' fees, costs (including expert fees) and other expenses of suit, to the plaintiffs as prevailing parties all as permitted under 29 USC §794a (b,); and

- d. That the Court award such other and further relief as it deems necessary, just and proper.

COUNT III - MASSACHUSETTS CONSTITUTIONAL AMENDMENT
ARTICLE 114 AND MASSACHUSETTS EQUAL RIGHTS LAW, G.L. C. 93 §103

- 44. The plaintiffs repeat the allegations of the preceding paragraphs as if set forth completely here. All events giving rise to this lawsuit occurred within the Commonwealth of Massachusetts.
- 45. Article 114 of the Massachusetts Constitution prohibits discrimination on the basis of a person's disability within Massachusetts.
- 46. Implementing Article 114 to the Massachusetts Constitution, G.L. c.93§103, the Massachusetts Equal Rights Law, guarantees person with disabilities the same rights as other persons, such as the right to contract, make purchases, sell property, participate in lawsuits and to receive the full benefit of the law.
- 47. The plaintiffs, G. David Iverson and members of Access with Success, Inc., have been excluded from fully participating in the municipal services and facilities made available by the City of Boston to the general public. The plaintiffs have been denied the benefits afforded to non-disabled citizens and they have been subject to ongoing discrimination by the defendant solely by reason of their disability as prohibited by Article 114 of the Massachusetts Constitution and (G.L. c. 93 § 103).
- 48. The plaintiffs, G. David Iverson and members of Access with Success, Inc. have been repeatedly distressed and inconvenienced by the discriminatory actions of the City of Boston, including its failure to remove access barriers to persons with mobility disabilities within Boston and its failure to modify its policies and procedures to accommodate disabled citizens such as the plaintiffs.

49. The plaintiffs' constitutional right to be free from discrimination in the Commonwealth of Massachusetts has been and continues to be violated by the City of Boston and they are therefore entitled to be compensated.
50. Pursuant to G.L. 93 § 103, this Court is authorized to grant the plaintiffs injunctive and other relief including, but not limited to compensatory and exemplary damages.
51. The plaintiffs' constitutional right to be free from discrimination in the Commonwealth of Massachusetts has been and continues to be violated by the defendant and they are therefore entitled to an award of compensatory and exemplary damages, reasonable attorneys' fees and costs of litigation in an amount to be determined by the Court.

WHEREFORE, the plaintiffs pray the Court's judgment on Count III of their Complaint.

JURY DEMAND

The plaintiffs demand a trial by jury on all counts so triable.

Respectfully submitted,
The Plaintiffs, G. David Iverson, et al,

By their Attorney,



Nicholas S. Guerrera, BBO# 551475
Shaheen Guerrera & O'Leary, LLC
Jefferson Office Park
820A Turnpike Street
North Andover, MA 01845
(978) 689-0800

Dated: August 18, 2004

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) G. David Iverson, et al. v.
City of Boston

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, ~~440~~, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

None

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Nicholas S. Guerrera, Shaheen Guerrera & O'Leary, LLC

ADDRESS 820A Turnpike Street, North Andover, MA 01845

TELEPHONE NO. 978-689-0800 fax 978-794-0890

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

G. David Iverson & Access with Success, Inc. D 1:19 City of Boston

DEFENDANTS(b) County of Residence of First Listed Plaintiff Suffolk
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Suffolk
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Nicholas S. Guerrera
820A Turnpike Street
North Andover, MA 01845
978-689-0800

N/A 11825 NMG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 378 Other Personal Property Damage		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395M)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 863 DIWC/DIW W (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prison Condition		
			FEDERAL TAXSUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- | | | | | | | |
|---|---|--|---|---|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|---|---|--|

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

Do not cite jurisdictional statutes unless diversity.
42 USC §12181 et seq. Americans with Disabilities Act of 1990. Action for Injunctive relief to compel defendant to remove architectural barriers to persons with mobility disabilities in place of public accommodation.

REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
VIII. RELATED CASE(S) <i>(See instructions):</i> IF ANY		Injunction	

SIGNATURE OF ATTORNEY OF RECORD

Nicholas S. Guerrera

JUDG E N/A DOCKET NUMBER

DATE

August 18, 2004

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE